

**Remarks/Arguments:**

**I. Status**

The Office Action dated May 6, 2004, has been carefully reviewed. Claims 21-23 have been added. Accordingly, claims 1-23 are pending in this application.

Reconsideration of this application is respectfully requested.

**II. 35 U.S.C. § 102 Rejection.**

Claims 1, 2, 4, 5, 7-9, 15, 16, 18 and 20 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,456,984 to Demoff et al. (hereinafter "Demoff").

Reconsideration of these claims in view of the following remarks is respectfully requested.

**The Present Invention**

The present invention comprises a system for supporting transactions billed to an account associated with a cellular telephone. A consumer selects products and presents them to a merchant's terminal where the products are identified to the terminal in the normal manner. In one non-limiting embodiment, the total amount of the transaction, a transaction code, and a payment processing center telephone number are presented to the consumer. The consumer then places a call to the payment processing center and enters the transaction code. At or about the same time, the merchant terminal sends merchant transaction data to the payment processing center.

A transaction record generator at the payment processing center receives consumer transaction data and merchant transaction data and correlates the two. The consumer transaction data may include, in addition to the transaction number, cellular phone identification such as the cellular phone number, an electronic serial number, a merchant identifier, and/or the transaction amount. The merchant transaction data includes the total amount of the transaction, and may further include a merchant identification code, and or a transaction identification code. The merchant identification code may identify the retailer, the particular store, a city and state, and/or terminal identification. Once the merchant transaction data and the consumer transaction data are correlated, a transaction record is generated that includes at least some of the merchant transaction data as well as at least some of the consumer transaction data.

The transaction record generator may then query a billing platform associated with the cellular phone to obtain approval for payment of the transaction. If approved, an approval code is generated and transmitted to either the cellular phone and/or the merchant's terminal. The goods are then released to the consumer.

#### Demoff

Demoff discloses a method and system of issuing credit as payment. (Demoff at Abstract). The system of Demoff can be used with either registered or unregistered merchants. When used with a registered merchant, a customer in communication with a transaction processing subsystem dials a vendor identification number, identifies and keys-in a checkout line designator, and verifies a purchase amount. (Id. at column 6, lines 22-26). In response, the system sends an authorization to the checkout line. (Id. at

column 6, lines 25-26). If the merchant is not registered, the system returns a credit transaction number which is then used with the merchant in the same manner as a credit card number. (Id. at column 6, lines 26-33).

Accordingly, Demoff discloses a system wherein all of the transaction data is provided through a cellular telephone. The vendor does not send any transaction specific information to the transaction processing subsystem.

#### Discussion Re: Patentability of Claim 1

##### 1. Claim 1

Claim 1 recites:

A system for supporting consumer transactions billed to an account through a cellular telephone comprising:  
a merchant data receiver for receiving merchant transaction data from a merchant terminal at a transaction site;  
a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site; and  
a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account so that approval for a transaction at the transaction site may be obtained.

Claim 1 thus recites a merchant data receiver that receives merchant transaction data from a merchant terminal, and a consumer data receiver that receives consumer transaction data from a cellular telephone. Claim 1 also recites a transaction processor that processes both received inputs, that is, a transaction related input from a terminal and a transaction related input from a cellular phone.

##### 2. Demoff Does Not Disclose Receiving Merchant Transaction Data

The Office action alleged that Demoff disclosed a data receiver receiving merchant transaction data from a merchant terminal citing to reference number 20 of FIG.

1 and column 6, lines 18-26. (Office Action at page 2). Respectfully, Demoff has been mischaracterized.

Specifically, reference number 20 identifies a PC customer. As described in Demoff at column 6, lines 18-26, the PC customer *does not send any data whatsoever* to the transaction processing subsystem at the time of a transaction. Rather, the *cellular phone* is used to send all of the data discussed. Because the merchant's computer of Demoff is not used to send any data to the transaction processing subsystem, Demoff does not disclose a data receiver receiving merchant transaction data from a merchant terminal.

Anticipation under 35 U.S.C. § 102 is proper only if the prior art reference discloses each and every element of the claim. Since Demoff does not disclose each and every element of Applicant's claim 1, Demoff does not anticipate claim 1.

3. Demoff Does Not Disclose Processing Two Transaction Related Inputs

The Office action alleged that Demoff disclosed a processor for processing the transaction, without providing any basis for this assertion. (Office Action at page 2). Respectfully, the claim recites processing two inputs to obtain approval for the transaction, which is not disclosed in Demoff.

Specifically, Demoff discloses that all of the data relating to a transaction is provided through the PCS phone operating as a smart card. (Demoff at column 6, lines 22-26). As is clearly shown in FIG. 8, the submission of data through the PCS phone is a request for approval. (Id. at column 7, lines 11-16). Based upon this data, approval of the transaction is determined. (Id. at column 7, lines 15-18). *After* approval, Demoff

discloses checking to see if the merchant is registered. However, registration data appears to be limited to data needed to debit or credit the merchant's account. (See e.g. *Id.* at column 5, lines 10-15). Thus, Demoff does not disclose processing of input about the transaction received from two different sources to obtain approval for the transaction.

Claim 1 recites a transaction processor that processes a transaction related input from a terminal and a transaction related input from a cellular phone. Demoff discloses only processing transaction data from a phone. Therefore, Demoff does not disclose a transaction processor as claimed. Since Demoff does not disclose each and every element of Applicant's claim 1, Demoff does not anticipate claim 1.

In the event the Examiner chooses to maintain this rejection of claim 1, the Examiner is respectfully requested to provide a citation to the element in Demoff that allegedly teaches the limitation of a transaction processor as claimed, preferably including a column and line number. (See e.g. 37 CFR 1.104 wherein the Examiner is required "designated as nearly as practicable" the particular part of a prior art that is relied upon).

#### 4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 1 as being anticipated by Demoff has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 102 should be withdrawn.

Discussion Re: Patentability of Claims 2, 4, 5, 7-9, 15, 16, 18 and 20

All of claims 2, 4, 5, 7-9, 15, 16, 18 and 20 either include limitations discussed above with respect to claim 1, or include limitations that have not been identified in the prior art by the Office Action.

Specifically, claim 2 depends from claim 1 and includes all of the limitation of claim 1. Moreover, the Office Action has failed to identify the claimed “approval query generator” in the prior art. Therefore, for at least these reasons claim 2 is patentable over the prior art.

With respect to claim 4, the Office Action has failed to identify the claimed “transaction data generator” as well as the claimed “transaction data display” as being taught by the prior art. Therefore, claim 4 is patentable over the prior art.

Claims 5 and 7 depend from claim 4 and include all of the limitations of claim 4. Moreover, claim 5 claims a “transaction data transmitter” and claim 7 claims an “approval receiver”. Neither of these limitations are cited by the Office Action as being taught in the prior art. Therefore, for at least these reasons claims 5 and 7 are patentable over the prior art.

Claim 8 recites a merchant data receiver for “receiving merchant data” and a “transaction processor”. These two limitations were discussed above with respect to claim 1. Therefore, for at least the same reasons set forth above with respect to claim 1, claim 8 is patentable over the prior art.

Claim 9 depends from claim 8 and includes all of the limitations of claim 8. Moreover, claim 9 recites a “transaction record generator” and “an approval query

generator". Neither of these limitations are cited by the Office Action as being taught in the prior art. Therefore, for at least these reasons claim 9 is patentable over the prior art.

Claim 15 does not recite a transaction processor, but a step of generating a transaction record from "merchant transaction data and consumer cellular telephone data". As discussed above with respect to claim 1, Demoff does not teach "merchant transaction data" nor does Demoff teach the combining merchant transaction data and consumer cellular telephone data. Therefore, for at least these reasons claim 15 is patentable over the prior art.

Claim 16 depends from claim 15 and includes all of the limitations of claim 15. Claim 16 further recites the step of generating "merchant data". Therefore, for at least these reasons claim 16 is patentable over the prior art.

Claim 18 depends from claim 15 and includes all of the limitations of claim 15. Moreover, claim 18 recites "displaying a telephone number". The Office Action fails to identify this step in the prior art. Therefore, for at least these reasons claim 18 is patentable over the prior art.

Claim 20 depends from claim 18 and includes all of the limitations of claim 18. Therefore, for at least this reasons claim 20 is patentable over the prior art.

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claims 2, 4, 5, 7-9, 15, 16, 18 and 20 as being anticipated by Demoff has been successfully traversed, and the Applicants respectfully submit that the rejection of claims 2, 4, 5, 7-9, 15, 16, 18 and 20 under 35 U.S.C. § 102 should be withdrawn.

In the event the Examiner chooses to maintain the rejection of claims 2, 4, 5, 7-9, 15, 16, 18 and 20 under Demoff, the Examiner is respectfully requested to provide some

indicia as to what elements in Demoff allegedly teach the claimed elements/steps. As noted above, 37 CFR 1.104 requires some degree of specificity. Respectfully, merely stating that “[t]he combination teaches the claimed subject matter in (see disclosure)” (Office Action at page 3) does not provide the required specificity.

### **III. 35 U.S.C. § 103 Rejection.**

Claims 3, 10, 11, 12, 14 and 17 were rejected under 35 U.S.C. § 103 as being unpatentable over Demoff in view of U.S. Patent No. 5,940,481 to Zeitman (hereinafter “Zeitman”). Claims 6, 13 and 19 were rejected under 35 U.S.C. § 103 as being unpatentable over Demoff in view Zeitman in further view of U.S. Patent No. 6,473,739 to Showghi et al. (hereinafter “Showghi”). Reconsideration of these claims in view of the following remarks is respectfully requested.

#### **1. All claims Depend From Non-Obvious Independent Claims.**

MPEP § 2143.03 states that if an independent claim is non-obvious, then any claim depending therefrom is non-obvious. Claim 3 depends through an intermediate claim from independent claim 1. Claim 6 depends through an intermediate claim from independent claim 4. Claims 10-14 depend from independent claim 8 either directly or through an intermediate claim. Claims 17 and 19 depend through intermediate claims from independent claim 15.

Independent claims 1, 4, 8 and 15 recite limitations that are not present in Demoff as discussed above. The Office action relies upon Zeitman for teaching a terminal that can receive an approval code (Office Action at page 3) and upon Showghi for teaching the display of options (Office Action at page 4). Therefore, even accepting the



combinations as proper, which is not admitted, the proposed combination does not arrive at the claimed invention of independent claims 1, 4, 8 and 15. Accordingly, under MPEP § 2143.03, claims 3, 6, 10, 11, 12, 13, 14, 17 and 19 are patentable over the prior art.

**IV. Claims 21-23**

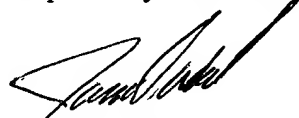
New claims 21-23 have been added. These claims recite novel and non-obvious limitations. Accordingly, claims 21-23 are believed to be allowable over the prior art.

**V. Conclusion**

Applicant respectfully requests entry of the amendments and favorable consideration of the application.

A prompt and favorable action on the merits is requested.

Respectfully Submitted,



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